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IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-496

RODDIE CROOKS, JR.,
Petitioner,

v.

STATE OF WASHINGTON,
Respondent.

RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I

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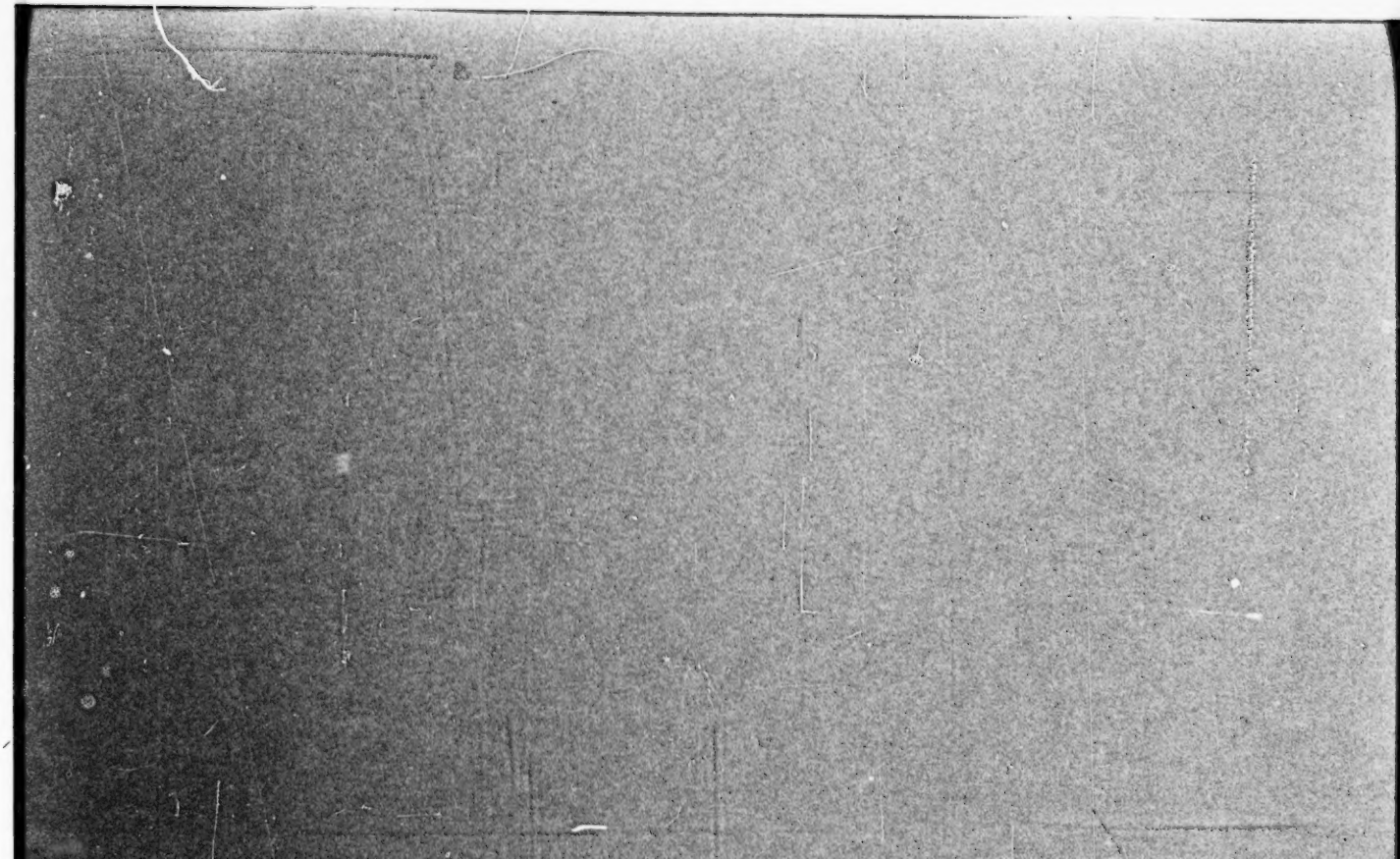

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COUNTERSTATEMENT OF THE CASE

Respondent accepts petitioner's statement of the case.

REASONS FOR NOT ALLOWING ISSUANCE OF THE WRIT

1. Petitioner Failed to Raise This Issue in the Court of Appeals or the Supreme Court of the State of Washington.

The Supreme Court of the United States has consistently held that issues which should and could have been determined in state proceedings will not be considered for the first time before this Court. A similar question was before the Court in *Beck v. Washington,* 369 U.S. 541, 8 L.Ed.2d 98, 82 S. Ct. 955 (1962). In that case petitioner asked the Court to

consider equal protection issues which had not been raised in the Supreme Court of the State of Washington. This request was refused.

2. Petitioner is a Fugitive From Justice, and the Court Should Not Consider his Petition.

Following his conviction in the King County Superior Court, the petitioner posted bond and was released from custody. He has not been seen since that time. Following a denial of the petition for writ of review from the Supreme Court of the State of Washington, petitioner did not surrender. An additional bench warrant for his arrest was issued from the King County Superior Court.

In *Molinaro v. New Jersey,* 396 U.S. 365, 90 S. Ct. 498, 24 L.Ed.2d 586 (1970), the Court held:

> While such an escape does not strip the case of its character as an adjudicable case or controversy, we believe it disentitles the defendant to call upon the resources of the court for determination of his claims. In the absence of specific provisions to the contrary in the statute under which *Molinaro* appeals . . . we conclude, in light of the *Smith* and *Bonahan* decisions, that the Court has the authority to dismiss the appeal on this ground.

24 L.Ed.2d at 558.

Respectfully submitted,

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